

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

RICOH CO., LTD.,

No. C-03-4669 MJJ (EMC)

Plaintiff,

v.

**ORDER GRANTING IN PART AND  
DENYING IN PART PLAINTIFF'S  
MOTION TO COMPEL**

AEROFLEX, et al.,

**(Docket No. 499)**

Defendants.

Ricoh has filed a motion, asking the Court to compel the Matrox Defendants to produce documents in accordance with a prior Court order or to impose an evidentiary-type sanction. Having considered the parties' briefs and accompanying submissions, the Court hereby GRANTS in part and DENIES in part the motion.

This motion is yet another example of a dispute between the parties that should have been resolved without the need for Court intervention. Under a prior Court order, the Matrox Defendants were required to produce the product packages for their ASICs. *See* Docket No. 460. According to Ricoh, the Matrox Defendants failed to produce the product packages for two of their ASICs known as Maven and Rainbow Runner. In response, the Matrox Defendants contend that the documents do not exist.

The Court hereby orders that the Matrox Defendants serve a declaration, certifying that they have produced the responsive documents -- *i.e.*, product packages for Maven and Rainbow Runner -- that are locatable after a diligent search of all locations at which such documents might plausibly

1 exist. If no documents exist, then the Matrox Defendants should state such. The declaration shall  
2 describe in detail the search efforts undertaken (*e.g.*, which locations were searched, who  
3 participated in the search). The declaration shall be served no later than a week after the filing date  
4 of this order. If Ricoh thereafter has concerns about the adequacy of the search that was conducted  
5 and/or the potential destruction of documents (whether advertent or inadvertent), then the parties  
6 should meet and confer to discuss these matters.

7 Ricoh's request for sanctions is at best premature. That Ricoh "has no desire to conduct a  
8 detailed investigation into when the relevant documents were destroyed, and whether Matrox failed  
9 to take adequate steps to preserve these files during the pendency of this litigation" is irrelevant.  
10 Mot. at 3. Based on the record before the Court, there is no evidence that the Matrox Defendants  
11 have not complied with the Court's prior order.

12 This order disposes of Docket No. 499.

13  
14 IT IS SO ORDERED.

15  
16 Dated: July 5, 2006



EDWARD M. CHEN  
United States Magistrate Judge